COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 231 OF 2001 (S/S)

U.P. State Road Transport Corporation,
Through Regional Manager, District Dehradun
..... Petitioner

Versus

1. Labour Court, Dehradun
2. Mohur Singh S/o Shri Prithvi Singh,
R/o Village Sona, Arjunpur, P.O. Nanauta, Distt. Saharanpur
..... Respondents

Shri A.N. Sharma, learned counsel for the petitioner.
Shri Gopal Narain, learned counsel for Respondent No.2.

Dated: 04.08.2005

Hon'ble P.C. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of Certiorari quashing the impugned order dated 31.07.2000 passed by Respondent No. 1-Presiding Officer, Labour Court, Dehradun in Reference Case No.26 of 2000 whereby the learned Labour Court ordered that the Respondent No.2 shall be reinstated in the services.

2. Brief facts of this case according to the petitioner are that on 25.04.1995, Respondent No.2- Mohur Singh alongwith two other persons collectively grabbed by collar and neck to Mukesh Singh, Assistant Regional Manager and beat him with fist kick and also with stick and also closed main gate of the depot and was rescued with other employees. The assistant Regional Manager made a complaint of this incident to Regional Manager after inquiring about the incident, Respondent No.2 was put under suspension vide order dated 28.04.1995. Thereafter, a chargesheet was served on Respondent No.2 by Regional Manager, Dehradun and thereafter a disciplinary enquiry was conducted and show cause notice was issued against

respondent No.2. The Regional Manager, Dehradun vide his order dated 17.0.6.1999 found him guilty of the charges framed against him and accordingly passed order of his dismissal from service with forfeiture of balance salary of his suspension period. The Respondent No. 2, thereafter filed an appeal before Divisional General Manager, Meerut. During the pendency of appeal, the Respondent No.2 raised the industrial dispute, which was decided in the following terms:-

> **"Whether the termination of the services of the applicant/workman Shri Mohar Singh S/o Shri Prithvi Singh, Driver by the employers from 17.06.1999 is justified and/or legal? If no, to which benefit/compensation the applicant/workman is entitled and to what extent?""**

3. After the receipt of the reference, the Labour Court issued notices to the parties to file their written statement/objections. The labour court after considering the entire record of the enquiry and the oral and documentary evidence led by the parties held that the punishment awarded to the workman/Respondent No.2 by the enquiry officer was harsh in nature. Therefore, the labour court set aside the order of removal and directed for reinstatement of Respondent No.2. Feeling aggrieved, this writ petition has been filed.

4. I have heard learned counsel for the parties and perused the entire material on record.

5. The learned Tribunal has rightly recorded a finding and came to a conclusion that since the other two persons who were also involved in the incident were reinstated in the service with stoppage of three increments because the charges were not fully proved against them. The charges levelled against the Respondent No. 2 were also not fully proved. The learned Tribunal rightly held that the witnesses, who were produced by the employers, were not examined in the enquiry proceedings held against the Respondent No.2 and therefore held that the order of

termination of services of Respondent No.2 was not justified and legal and accordingly ordered for reinstatement.

6. I do not find infirmity or perversity in the award impugned. Therefore, the impugned award does not call for any interference by this Court in exercise of its power under Article 226 of the Constitution of India. Moreover, no error of law in recording concurrent finding of fact by the Labour Court is pointed out.

7. The writ petition is devoid of merit and is dismissed accordingly. No order as to costs.

(P.C. Verma, J.)

Rajeev Dana